

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WESLEY MELTON PUGH, JR.,

Defendant-Appellant.

UNPUBLISHED
February 13, 2007

No. 266172
Arenac Circuit Court
LC No. 04-003039-FH

Before: Meter, P.J., and O’Connell and Davis, JJ.

PER CURIAM.

Defendant was convicted by a jury of assault with intent to do great bodily harm, MCL 750.84, and felonious assault, MCL 750.82. He was sentenced as a fourth-offense habitual offender, MCL 769.12 to prison terms of nine-and-a-half to thirty years for the assault with intent to do great bodily harm conviction and four months to four years for the felonious assault conviction. He appeals as of right. We affirm.

As his sole issue on appeal, defendant claims that insufficient evidence was presented at trial to support his conviction of assault with intent to commit great bodily harm. We disagree.

When reviewing the sufficiency of the evidence presented in a criminal case, an appellate court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Moorer*, 262 Mich App 64, 76-77; 683 NW2d 736 (2004). All reasonable inferences and credibility choices must be made in support of the jury verdict, and all conflicts in the evidence must be resolved in favor of the prosecution. *People v Martin*, 271 Mich App 280, 340; 721 NW2d 815 (2006). “Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.” *Id.* (citations and quotation marks omitted).

The elements of the crime of assault with intent to commit great bodily harm less than murder are (1) an attempt or threat with force or violence to do corporal harm to another and (2) an intent to do great bodily harm less than murder. *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005). No actual physical injury need be shown. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992).

The prosecutor clearly provided sufficient evidence to establish the elements of assault with intent to commit great bodily harm less than murder. The trial testimony showed that defendant, who had been drinking on the day in question, threatened his live-in girlfriend (the victim of the felonious assault) and a mutual friend (the victim of the assault with intent to do great bodily harm) who had come to her defense. An argument ensued that eventually developed into a physical altercation, with defendant striking the friend over thirty times with a bat. At least one of the blows struck the friend in the head. While swinging the bat, defendant repeatedly shouted "I'm going to kill you" at the friend. The altercation ended only after the friend managed to obtain a hatchet, which he used to strike defendant in the shoulder and disarm him of the bat. Viewed in the light most favorable to the prosecution, these facts were sufficient to support defendant's conviction of assault with intent to do great bodily harm less than murder.

Affirmed.

/s/ Patrick M. Meter
/s/ Peter D. O'Connell
/s/ Alton T. Davis